IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HONOURABLE SRI JUSTICE K.C.BHANU

WRIT PETITION NO : 24324 of 2004

Between:

Ch.Appala Reddy son of late Appalaswamy

..... PETITIONER

AND

1. Eastern Power Distribution Company of A.P.Ltd.,

   Rep.by its Chairman and Managing Director, Near Saraswathi Park,Visakhapatnam.530 020.

2. Superintending Engineer, Operation, APEPDC,Visakhapatnam.

3. Divisional Engineer (Enquiries) APEPDC, Opp.Green Park Hotel, Visakhapatnam-530 020.

4. Divisional Engineer, Operation Zone-II, ApEPDC, Ramamurthypanthulupeta, Kancharapalem,Visakhapatnam-530008.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ order or direction particularly one in the nature of MANDAMUS declaring all the proceedings leading up to and including Charge Memo No.DE/ENQ/VSP/F.DOC.F.162/04/D.No.447/4 dated 22-11-2004 of the third respondent herein as arbitrary, illegal, without jurisdiction and consequently by quashing the same and pass such other relief or reliefs as the Honourable Court may deem fit just and proper in the circum stances of the case.

COUNSEL FOR THE PETITONER: MR.P.B.VIJAYA KUMAR

COUNSEL FOR THE RESPONDENTS: MR.M.SUBBARAO, SC FOR APEPDC

The Court made the following :

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ORAL ORDER

This writ petition is filed to declare the proceedings leading up to and including Charge Memo No.DE/ENQ/VSP/F.DOC.F.162/04/ D.No.447/04, dated 22-11-2004 of the Divisional Engineer (Enquiries), APEPDC, Viskhapatnam-3rd respondent as illegal and arbitrary.

The Divisional Engineer (Enquiries)-3rd respondent was appointed as an Enquiry Officer through proceedings No.SE/O/VSP/A/A2/D.No.2874 dated 29-10-2004 of the Superintending Engineer, Operation, APEPDC, Visakhapatnam-2nd respondent to conduct departmental enquiry into the allegations of corruption and irregularities alleged to have been committed by the petitioner. Thereupon, the enquiry officer framed the charges and served on the petitioner. Challenging the same, the present writ petition is filed.

The learned counsel for the petitioner contended that enquiry officer is not competent to frame the charges and the disciplinary authority is alone competent to frame the charges and, therefore, the order of framing charges by the enquiry officer suffers from serious legal infirmities and hence he prayed the Court to quash the same.

On the other hand, the learned Standing Counsel for the respondents-Corporation contended that the enquiry officer is competent to frame the charges and on a direction from the higher authority, the competent authority can also frame the charges and therefore, framing of the charges by the enquiry officer does not suffer from any legal infirmity so as to call for interference of this Court.

The facts are not in dispute. Admittedly, the Divisional Engineer (enquiries) framed the charges against the writ petitioner and it was served on the petitioner. The service conditions of the employees of the respondent-Corporation are governed by the Andhra Pradesh State Transmission Corporation Ltd., Employees Discipline and Appeal Regulations which come into force with effect from 27-01-1970. Regulation

10 (2)(a) is the relevant regulation with regard to appointment of enquiry officer or framing of the charges. Regulation 10(2)(a) reads as follows::-

> " in every case where it is proposed to impose on a member of a service any of the penalties specified in items (iv),(vi),(vii) and (viii) in Regulation 5, the authority competent to impose the penalty shall appoint an enquiry Officer, who shall be superior in rank to the person on whom it is proposed to impose the penalty, or shall itself hold an enquiry either *SUO-MOTU* or on a direction from a higher authority in every such case the grounds on which it is proposed to take action shall be reduced to the form of definite charge or charges, which shall be communicated to the person charged, together with a statement of the allegations on which each charge is based and of any other circumstances which it is proposed to take into consideration in passing of the orders"

Basing on the said provision, the learned counsel for the petitioner contended that disciplinary authority is the authority competent who has to frame the charges. On the other hand, it is contended by the learned Standing Counsel for the respondent that when a direction given from the higher authority, the competent authority in such cases can also frame the charges. Therefore, framing of charges by the Divisional Engineer against the petitioner does not violate the 10(2)(a) of the Regulations. A bare reading of the above provision makes it clear that the competent authority firstly can appoint an enquiry officer who shall be the superior in rank to the person on whom it is proposed to impose the penalty. Admittedly, in this case the enquiry officer is superior in the rank to the cadre of petitioner. Secondly, the competent authority itself hold an enquiry either *suo-motu* or thirdly on a direction from the higher authority it can frame the charges. Admittedly, in this case the higher authority or the competent authority has not given any direction to the competent authority to conduct enquiry so as to frame the definite charges against the petitioner. Therefore, in my considered opinion, the above Rule does not specifically bar the enquiry officer to frame the charges. Therefore, framing of the charges by the enquiry officer does not suffer from legal infirmities so as to call for interference by this Court.

Therefore, the writ petition is devoid of merits and is accordingly dismissed. The interim stay granted earlier shall stand vacated.

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K.C.BHANU,J

15TH FEBRUARY 2005

*TSNR

TO

1. The Chairman and Managing Director,Eastern Power Distribution Company of A.P.Ltd., Near Saraswathi Park,Visakhapatnam.530 020.

2. The Superintending Engineer, Operation, APEPDC,Visakhapatnam.

3. The Divisional Engineer (Enquiries) APEPDC, Opp.Green Park Hotel, Visakhapatnam-530 020.

4. The Divisional Engineer, Operation Zone-II, ApEPDC,
   Ramamurthypanthulupeta, Kancharapalem,Visakhapatnam-530008.

5. Two C.D.Copies.